

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

United States of America,)	
)	
Plaintiff,)	ORDER GRANTING GOVERNMENT’S MOTION FOR RULE 44(c) INQUIRY REGARDING JOINT REPRESENTATION
)	
vs.)	
)	
Michael L. Fisher, and)	Case No. 1:08-cr-026
Fisher Sand and Gravel Co., Inc.,)	
)	
Defendants.)	

Before the Court is the Government’s “Motion for Rule 44(c) Inquiry Regarding Joint Representation,” filed on May 30, 2008. See Docket No. 20. The Government requests that the Court conduct an inquiry of defendants, Michael L. Fisher and Fisher Sand & Gravel, Co., Inc., (FSG) pursuant to Federal Rule of Criminal Procedure 44(c)(2) with respect to the joint representation of those co-defendants by defense counsel, Jon Jensen. The Government contends that Mr. Jensen’s dual representation of the co-defendants in this criminal conspiracy case creates a significant risk of an actual conflict of interest arising during the proceedings.

Rule 44(c)(2) of the Federal Rules of Criminal Procedure provides that “[t]he court must promptly inquire about the propriety of joint representation and must personally advise each defendant of the right to the effective assistance of counsel, including separate representation. Unless there is good cause to believe that no conflict of interest is likely to arise, the court must take appropriate measures to protect each defendant’s right to counsel.” The Government suggests that Thomas Fisher, the president and majority shareholder of FSG, would be an appropriate officer to appear on behalf of FSG at the hearing.

The Court has reviewed the Government’s motion and memorandum in support and **GRANTS**

the Government's motion for Rule 44(c) inquiry regarding joint representation (Docket No. 20). The Court **ORDERS** that the defendant Michael L. Fisher and Thomas Fisher, or some other disinterested officer of defendant Fisher Sand & Gravel, Co., Inc., shall appear in Courtroom One of the U.S. District Court for the District of North Dakota on Tuesday, July 8, 2008, at 1:30 p.m. for an inquiry into the propriety of joint representation of the defendants under Rule 44(c)(2) of the Federal Rules of Criminal Procedure.¹

IT IS SO ORDERED.

Dated this 6th day of June, 2008.

/s/ Daniel L. Hovland

Daniel L. Hovland, Chief Judge
United States District Court

¹ If separate counsel is retained by Michael Fischer or Fisher Sand & Gravel Co., Inc., before the scheduled date of the hearing, the parties are requested to contact the Clerk of the District Court and chambers.